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Service

Title Process Server

Date 12-17-13 Time 20:15

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o Attorneys for the Plaintiff

10

11 MONTANA SEVENTH JUDICIAL DISTRICT, RICHLAND COUNTY, MONTANA

12

20

21

THE STATE OF MONTANA TO THE ABOVE-NAMED DEFENDANT:

23 5043 Petroleum Park Drive
24 Williston, ND 58801

21

1

2 A lawsuit has been filed against you.

3

4 Within twenty-one (21) days after service of this Summons on you
5 or 42 days if you are the State of Montana, a state agency, or a
6 state officer or employee), you must serve on the Plaintiff an
7 Answer to the attached Complaint or a motion under Rule 12 of
8 the Montana Rules of Civil Procedure. Do not include the day
9 you were served in your calculation of time. The answer or
10 motion must be served on Plaintiff or Plaintiff's attorneys, if
11 Plaintiff is represented by an attorney, whose name and address
12 are listed above.

13

14 If you fail to respond, judgment by default will be entered
15 against you for the relief demanded in the Complaint.

16

17

DATED this 21st day of November, 2013.

18

(COURT SEAL)

19

20

21

22

23

24

J BURTON.HOBUSHSUMMONS

25

Janie Klemml

CLERK OF DISTRICT COURT

By LS/ Alli Nelson

FILED Janie Kempel
CLERK OF DISTRICT COURT
NOV 21 2013
BY A. Nelson DEPUTY

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Attnorneys for the Plaintiff

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11 MONTANA SEVENTH JUDICIAL DISTRICT, RICHLAND COUNTY, MONTANA

20 PLAINTIFF, LEROY BURTON, for his claims against the
21 Defendants states and alleges as follows:

T.

Plaintiff, LEROY BURTON, is a resident of Richland County, Montana.

11

Upon information and belief, Plaintiff alleges that Defendant, REED TAYLOR HOBUSH, is and was a resident of Williston, Williams County, North Dakota, at all times material herein.

111

Upon information and belief, Plaintiff alleges that Defendant, HARPER EXCAVATING, INC., is a Utah corporation not authorized to do business within the State of Montana, at all times material herein.

IV

16 The true names and capacities of DOES I-V are unknown to
17 the Plaintiff, who, therefore sue said Defendants under these
18 fictitious names. On information and belief, Defendants DOES I-
19 V, inclusive, (i) directly participated in or assisted in the
20 performance of the wrongful acts and omissions described herein,
21 although the full extent of their involvement is unknown at this
22 time, OR (ii) conspired with the named parties in this case to
23 perform the wrongful acts and omissions described below,
24 although the full extent of their involvement is unknown at this

1 time, OR (iii) acted as principals or agents, actual or
2 ostensible, of other named parties in this case in performing
3 the wrongful acts and omissions described below, although the
4 full extent of their involvement is unknown at this time.
5 Plaintiff thus believes that Defendant DOES I-V, inclusive, are
6 liable for the damages and other relief sought in this case as
7 participants, co-conspirators, principals or agents, or are
8 otherwise necessary or indispensable parties to adjudication of
9 the issues involved in this case. When the true names and
10 capacities of DOES I-V, inclusive, have been ascertained,
11 appropriate amendments of this Claim will be filed.
12

V.

13 Plaintiff is further informed, believes and thereon alleges
14 that at all times herein mentioned all Defendants, including
15 DOES I-V, inclusive, (i) jointly perpetrated the acts described
16 herein with their Co-Defendants, (ii) were the successors in
17 interest to, or agents, principals, partners, joint venturers,
18 or co-conspirators of their Co-Defendants in doing the things
19 herein alleged and were acting within the scope and authority or
20 in furtherance of a common scheme or design with the knowledge,
21 permission, consent or ratification of their Co-Defendants in
22 doing the things herein alleged and therefore are liable,
23 jointly and severally, for all damages and other relief or
24

1 remedies sought by Plaintiff in this action.

2 VI.

3 On April 23, 2012, at approximately 1:59 o'clock p.m.,
4 Defendant Hobush was traveling north in the 400 Block of North
5 Central Avenue on Montana Highway 16 in Sidney, Montana in a
6 motor vehicle owned by Defendant Harper Excavating, Inc. At
7 such time and place, Defendant Hobush negligently collided with
8 the rear end of a motor vehicle driven by Plaintiff which was
9 lawfully stopped awaiting another vehicle to make a left hand
10 turn.

11 VII.

12 Defendant Hobush operated the vehicle he was driving in a
13 careless, reckless and negligent manner causing it to collide
14 with the vehicle driven by Plaintiff which resulted in severe
15 and debilitating injuries to Plaintiff.

16 VIII.

17 Defendant Harper Excavating, Inc. is vicariously liable for
18 the negligent acts and omissions of its employee, Defendant
19 Hobush.

20 IX.

21 Defendant Harper Excavating, Inc. is independently
22 negligent in failing to adequately train and supervise its
23 employee, Defendant Hobush.

1 X.

2 As a direct and proximate/legal result of the negligence
3 and carelessness of the Defendants, Plaintiff Leroy Burton
4 suffered serious and permanent injuries and sustained, and will
5 sustain in the future, medical expenses and physical and
6 emotional pain and suffering.

7

8 WHEREFORE, Plaintiff seeks judgment against Defendants for
9 an amount to compensate him for his past and future medical
10 expenses, pain, suffering and disability plus interests, costs
11 and disbursements and such other and further relief as the Court
12 may deem just and equitable.

13

14

DATED this 21st day of November, 2013.

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EDWARDS, FRICKLE & CULVER

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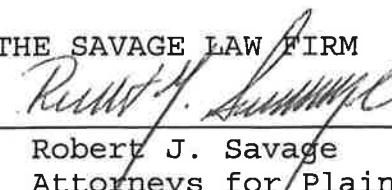
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THE SAVAGE LAW FIRM

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By


Robert J. Savage

20 Attorneys for Plaintiff

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DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all such issues so triable.

DATED this 21 day of November, 2013.

EDWARDS, FRICKLE & CULVER

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THE SAVAGE LAW FIRM

By

Robert J. Savage
Attorneys for Plaintiff